

## § 107.6

(d) Contracts for personal services entered into shall be awarded and administered pursuant to the provisions of the Federal Acquisition Regulation (FAR), part 37 and DoD and departmental supplementary contracting provisions.

### § 107.6 Responsibilities.

(a) The Military Departments shall be responsible for the management of the direct health care provider contracting program, ensuring that effective means of obtaining adequate quality care is achieved in compliance with the FAR, part 37. The portion of the Military Department regulations ensuring that compensation provided for a particular type of service is based on objective criteria and is not susceptible to individual favoritism shall be stressed.

(b) The Office of the Assistant Secretary of Defense (Health Affairs) (OASD(HA)) shall be responsible for monitoring the personal services contracting program.

ENCLOSURE 1 TO PART 107—TABLE OF  
AUTHORIZED COMPENSATION RATES

Occupation/specialty group	Compensation rate not to exceed	
	Pay grade	Years of serv- ice
I. Physicians and dentists .....	0-6	Over 26.
II. Other individuals, including nurse practitioners, nurse anesthetists, and nurse midwives, but exclud- ing paraprofessionals.	0-5	Over 20 but less than 22.
III. All registered nurses, except those who are included in Group II.	0-4	Over 16 but less than 18.
IV. Paraprofessionals .....	0-3	Over 6 but less than 8.

## PART 108—HEALTH CARE ELIGIBILITY UNDER THE SECRETARIAL DESIGNEE PROGRAM AND RELATED SPECIAL AUTHORITIES

Sec.

108.1 Purpose.

108.2 Applicability.

108.3 Definition.

108.4 Policy.

108.5 Eligible senior officials of the U.S. Government.

108.6 Responsibilities.

AUTHORITY: 10 U.S.C. 1074(c); 10 U.S.C. 2559.

## 32 CFR Ch. I (7-1-11 Edition)

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### § 108.1 Purpose.

This part:

(a) Establishes policy and assigns responsibilities under 10 U.S.C. 1074(c) for health care eligibility under the Secretarial Designee Program.

(b) Implements the requirement of 10 U.S.C. 2559 that the United States receive reimbursement for inpatient health care provided in the United States to foreign military or diplomatic personnel or their dependents, except in certain cases covered by Reciprocal Health Care Agreements (RHCAs) between the Department of Defense and a foreign country.

### § 108.2 Applicability.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the “DoD Components”).

(b) Does not apply to health care services provided to coalition forces in operational settings, or to allied forces in overseas training exercises and similar activities. Also, does not apply to health care services provided to foreign nationals overseas under DoD Instruction 3000.05,<sup>1</sup> DoD Instruction 2205.2,<sup>2</sup> or DoD Instruction 2310.08E.<sup>3</sup>

### § 108.3 Definition.

*Secretarial Designee Program.* The program established under section 1074(c) to create by regulation an eligibility for health care services in military medical treatment facilities (MTFs) as

<sup>1</sup>Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/300005p.pdf>.

<sup>2</sup>Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/220502p.pdf>.

<sup>3</sup>Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/231008p.pdf>.

well as dental treatment facilities for individuals who have no such eligibility under 10 U.S.C. chapter 55.

#### § 108.4 Policy.

It is DoD policy that:

(a) *General Policy.* The use of regulatory authority to establish DoD health care eligibility for individuals without a specific statutory entitlement or eligibility shall be used very sparingly, and only when it serves a compelling DoD mission interest. When used, it shall be on a reimbursable basis, unless non-reimbursable care is authorized by this part or reimbursement is waived by the Under Secretary of Defense (Personnel & Readiness) (USD(P&R)) or the Secretaries of the Military Departments when they are the approving authority.

(b) *Foreign Military Personnel and Their Dependents.* (1) *MTF Care in the United States.* Foreign military personnel in the United States under the sponsorship or invitation of the Department of Defense, and their dependents approved by the Department of Defense to accompany them, are eligible for space-available care as provided in DoD Instruction 1000.13.<sup>4</sup> Consistent with 10 U.S.C. 2559, in cases in which reimbursement is required by DoD Instruction 1000.13, a RHCA may provide a waiver of reimbursement for inpatient and/or outpatient care in the United States in a military medical treatment facility for military personnel from a foreign country and their dependents, if comparable care is made available to at least a comparable number of U.S. military personnel and their dependents in that foreign country. A disparity of 25 percent or less in the number of foreign personnel and dependents above U.S. personnel and dependents shall be considered within the range of comparable numbers.

(2) *Non-MTF Care in the United States.* Foreign military personnel in the United States under the sponsorship or invitation of the Department of Defense, and their dependents approved by the Department of Defense to accompany them, are not eligible for DoD

payment for outpatient or inpatient care received from non-DoD providers, except for such personnel covered by the North Atlantic Treaty Organization Status of Forces Agreement (SOFA) or the Partnership for Peace SOFA and authorized care under the TRICARE Standard program according to §199.3 of title 32, Code of Federal Regulations, outpatient care may be provided as specified therein.

(c) *Foreign Diplomatic or Other Senior Foreign Officials.* Foreign diplomatic or other senior foreign officials and the dependents of such officials may be provided inpatient or outpatient services in MTFs only in compelling circumstances, including both medical circumstances and mission interests, and through case-by-case approval.

(1) In the United States, the approval authority is the USD(P&R). The authority to waive reimbursement for care provided in the United States, to the extent allowed by law, is the USD(P&R) or the Secretaries of the Military Departments when they are the approving authority.

(2) Requests from the State Department or other agency of the U.S. Government will be considered on a reimbursable basis.

(3) Under 10 U.S.C. 2559, reimbursement to the United States for care provided in the United States on an inpatient basis to foreign diplomatic personnel or their dependents is required.

(d) *Other Foreign Nationals.* Other foreign nationals (other than those described in paragraphs (b) and (c) of this section) may be designated as eligible for space-available care in MTFs only in extraordinary circumstances.

(1) The authority to waive reimbursement for care provided in the United States, to the extent allowed by law, is the USD(P&R) or the Secretaries of the Military Departments when they are the approving authority. Waiver requests will only be considered based on a direct and compelling relationship to a priority DoD mission objective.

(2) Requests from the State Department or other agency of the U.S. Government will be considered on a reimbursable basis. Such requests must be supported by the U.S. Ambassador to the country involved and the Geographical Combatant Commander for

<sup>4</sup>Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/100013p.pdf>.